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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/511,898	02/23/2000	Hisashi Yamagishi	Q58044	4185

7590 02/21/2002

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EXAMINER

HUNTER, ALVIN A

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 02/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/511,898

Applicant(s)

YAMAGISHI ET AL.

Examiner

Alvin A. Hunter

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/129,883.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Comments

It is noted that the applicant has filed several applications, several of which are claiming conflicting subject matter and at least three of which contain identical claims, which have necessitated the following rejections and which have not been brought to the attention of the examiner. Applicant's attorneys and all those selectively involved with the filing and prosecution of these applications are respectfully reminded of the obligation to bring to the attention of the office these other applications which are material to the examination of this case.

Drawings

The corrected or substitute drawings were received on February 8, 2002. These drawings are acceptable.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamagishi et al. (USPN 5695413) in view of Yamagishi et al. (USPN 5779563).

Yamagishi et al. (USPN 5695413) discloses a multi-layered golf ball having a two-layered core and cover (See Figure 1). The inner core has a distortion of 3.5mm

under an applied load of 100kg (See Figure 1). The cover layer has a Shore D hardness of 50 to 60 with a thickness of 1.3 to 2.4mm, and the outer core layer has a Shore D hardness of 20-70 with a thickness of 1.3 to 2.5mm (Figure 2). The product of the Shore D hardness of the outer core layer and cover layer would be 1000 to 4200 which is implied within Figure 2. Yamagishi et al. (USPN 5695413) fails to disclose dimples. Yamagishi et al. (USPN 5779563) discloses a plurality of dimples, at least three types of dimples different in diameter, in which the largest diameter is 4.150mm having a dimple depth of .210mm, V_o of .48, and the smallest dimple diameter is 3.5mm having a dimple depth of .210mm in order to improve flying distance, controllability, straight travel, roll, and durability (See Table 3, Type II). In addition, Yamagishi et al. discloses a V_o of 0.40 to 0.65 in order to prevent a stall and descending trajectory (See Column 5, lines 38 through 47).

Therefore, it would have been obvious to include the ball of Yamagishi et al. (USPN 5695413) to have a Shore D product of 1000 to 4200 in order to have a ball which minimizes damage when being impacted by a club. In view of patent of Yamagishi et al. (USPN 5779563) it would have been obvious to modify the ball of Yamagishi et al. (USPN 5695413) to have type II dimples as defined by the claims in order to utilize a dimple pattern available in the market place to improve flying distance, controllability, straight travel, and roll.

Double Patenting

2. Claims 1-3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of Application

No. 09/764307. Although the conflicting claims are not identical, they are not patentably distinct from each other because Application No. 09/764307 has a V_R 0.8 to 1.1% when the product of the Shore D hardnesses of the inner and outer cover layer are 1500 to less than 2000 (See Claim 1). The V_R value encompasses the range of that claimed in the present application and therefore, would achieve the same results. It would have been obvious to one having ordinary skill in the art to have a V_R of 0.8 to 1.1 when the product of the Shore D hardnesses of the inner and outer cover layer are 1500 to less than 2000 in order to achieve the flight performance desired for the golf ball from the process of routine optimization.

3. Claims 1-3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of Application No. 09/764139. Although the conflicting claims are not identical, they are not patentably distinct from each other because Application No. 09/764139 has a V_R 0.8 to 1.1% when the product of the Shore D hardnesses of the inner and outer cover layer are 1500 to less than 2000 (See Claim 1). The V_R value encompasses the range of that claimed in the present application and therefore, would achieve the same results. It would have been obvious to one having ordinary skill in the art to have a V_R of 0.8 to 1.1 when the product of the Shore D hardnesses of the inner and outer cover layer are 1500 to less than 2000 in order to achieve the flight performance desired for the golf ball from the process of routine optimization.

4. Claims 1-3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of Application

No. 09/764316. Although the conflicting claims are not identical, they are not patentably distinct from each other because Application No. 09/764316 has a V_R 0.8 to 1.1% when the product of the Shore D hardnesses of the inner and outer cover layer are 1500 to less than 2000 (See Claim 1). The V_R value encompasses the range of that claimed in the present application and therefore, would achieve the same results. It would have been obvious to one having ordinary skill in the art to have a V_R of 0.8 to 1.1 when the product of the Shore D hardnesses of the inner and outer cover layer are 1500 to less than 2000 in order to achieve the flight performance desired for the golf ball from the process of routine optimization.

Response to Arguments

Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

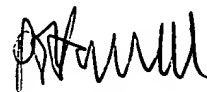
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is 703-306-5693. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached on (703) 308-2126. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7768.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Paul T. Sewell
Supervisory Patent Examiner
Group 3700